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10/537,819

06/06/2005

Joachim Grupp

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GRIFFIN & SZIPL, PC

SUITE PH-1

2300 NINTH STREET, SOUTH

ARLINGTON, VA 22204

EXAMINER

FRANKLIN, JAMARA ALZAIDA

ART UNIT

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2876

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/537,819	<b>Applicant(s)</b> GRUPP, JOACHIM	
	<b>Examiner</b> JAMARA A. FRANKLIN	<b>Art Unit</b> 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 24-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24,25,27,34-37 and 43 is/are rejected.
- 7) ☒ Claim(s) 26,28-33 and 38-42 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06/06/05</u> .  | 6) <input type="checkbox"/> Other: ____.                          |

### **DETAILED ACTION**

Acknowledgment is made of the preliminary amendment filed on June 06, 2005. Claims 24-43 are currently pending.

#### ***Drawings***

1. The drawings are objected to because figure 2 contains the foreign language word 'et', figure 4 contains a misspelling of 'complete', and figures 5A and 5B contain misspellings of 'ambient'. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Specification*

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. **The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided.** The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### *Claim Objections*

3. Claims 24, 25, 29, 31-33, and 35-43 are objected to because of the following informalities:

in claim 24, line 13, substitute the first occurrence of "the";

in claim 24, line 15, substitute "whose" with --having--;

in claim 24, line 16, insert --that-- between "means" and "are";

in claim 25, line 7, delete "I";

in claim 29, insert --portable-- between "The" and "electronic";

in claim 31, line 1, substitute "25" with --27--;

in claim 31, line 4, substitute "the" with --an--;

in claim 32, line 2, delete "application";

in claim 33, line 1, substitute "Portable" with --portable--;

in claim 33, line 3, delete "i.";

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in claim 33, line 4, delete “ii.”;

in claim 33, line 5, delete “iii.”;

in claim 35, line 3, substitute “can a priori be” with --is a priori--;

in claim 36, line 6, substitute “the” with --a--;

in claim 36, line 14, substitute “whose” with --having--;

in claim 36, line 15, insert --that-- between;

in claim 37, line 6, substitute “the” with --a--;

in claim 37, line 14, substitute “whose” with --having--;

in claim 37, line 15, insert --that-- between “means” and “are”;

in claim 37, line 17, delete “i.” and substitute “a” with --said--;

in claim 37, line 18, delete “ii.” and insert --said-- in front of “at”;

in claim 37, line 19, delete “iii.” and substitute “a” with --said--;

in claim 37, line 22, delete “iv.”;

in claim 37, line 25, delete “v.”;

in claim 37, line 27, delete “vi.”;

in claim 37, line 31, delete “v.” and substitute “whose” with --having--;

in claim 37, line 32, insert --that-- between “means” and “are”;

in claim 37, line 60, delete “and third”;

in claim 38, line 1, substitute “A” with --The--;

in claim 39, line 1, substitute “A” with --The--;

in claim 40, line 1, substitute “A” with --The--;

in claim 41, line 1, substitute “A” with --The--;

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in claim 42, line 1, substitute “A” with --The--;

in claim 43, line 1, substitute “A” with --The--;

in claim 43, line 1, substitute “a” with --the--; and

in claim 43, substitute “can a priori be” with --are a priori--.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 24, 25, 27, 35-37, and 43 are rejected under 35 U.S.C. 102(e) as being anticipated by Bork et al. (US 6,954,657) (hereinafter referred to as ‘Bork’).

Bork teaches a portable electronic object including

(a) a first user interface;

(b) at least one second user interface;

(c) a management unit (MCU 218) for said user interfaces including first and at least second processing means respectively associated with said first and at least second user interfaces;

(d) means for measuring at least one external parameter (temperature sensor 220, light sensor 222, motion sensor 224) linked to at least one of said user interfaces, said measuring means being connected to said management unit;

(e) comparison means (memory 216) for comparing a level of said measured external parameter to a predefined level of said external parameter (figures 1b and 1c); and

(f) control means arranged for activating or deactivating said processing means associated with said user interface linked to the measured external parameter as a function of the result of the comparison,

wherein the portable electronic object further comprises:

(g) means for selecting a user interface from among said user interfaces whose associated processing means are not deactivated, in accordance with a predetermined criterion;

the portable electronic object wherein said first user interface includes sound signal reception means, said first associated processing means being sound signal processing means,

said second user interface includes control members and display means, said second associated processing means being control member processing means,

said measuring means include

an ambient noise sensor for measuring an ambient noise level, said management unit also including first comparison means for comparing said ambient noise level to a predefined noise level, said control means being arranged for deactivating the sound signal processing means when the ambient noise level exceeds the predefined noise level,

wherein the measuring means further comprise  
a light sensor for measuring a received light level, said management unit also including  
second comparison means for comparing said received light level to a predefined light  
level, said control means also being arranged for deactivating said control member  
processing means when the received light level passes below the predefined light level;  
the portable electronic object wherein the management unit also includes means for  
determining an interface based on a fuzzy logic method when no interface can a priori be  
used.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all  
obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bork in view of  
Ting-Ching (US 4,432,653).

The teachings of Bork have been discussed above.

Bork lacks the teaching of a diary watch.

Ting-Ching teaches a portable electronic object wherein the portable object is a diary  
watch (col. 1, line 66-col. 2, line 8).

One of ordinary skill in the art would have readily recognized that providing the Bork  
invention with a diary watch would have been beneficial since the watch could be physically



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worn on the body of the user thereby making the watch and all the functionality associated with the watch readily accessible. Therefore, it would have been obvious, at the time the invention was made, to modify the teachings of Bork with the aforementioned teaching of Ting-Ching.

*Allowable Subject Matter*

8. Claims 26, 28-33, and 38-42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter:

regarding claims 26 and 38, the prior art of record fails to teach or fairly suggest either alone or in combination thereof a portable electronic object and method for using the portable electronic object wherein the control members are a tactile crystal including at least two electrodes,

wherein the portable object includes

a member for detecting activation of each of the at least two electrodes, the detection member being connected to a management unit;

and wherein a control unit is arranged for deactivating a control member processing member when simultaneous activation of the at least two electrodes is detected;

regarding claim 28, the prior art of record fails to teach or fairly suggest either alone or in combination thereof a portable electronic object further including

an unwanted frequency sensor for measuring an unwanted frequency level, a control unit including a third comparison member for comparing the measured unwanted frequency level to a predefined frequency level, the control member also being arranged for deactivating the radio-frequency signal processing member when the unwanted frequency level exceeds the predefined frequency level;

regarding claim 32, the prior art of record fails to teach either alone or in combination thereof the portable electronic object wherein the application predetermined criterion is selected in accordance with the following criterion:

the energy consumption level of each of the user interfaces that can be used, that having the lowest consumption being selected;

the estimated data introduction mean speed, that offering the highest speed being selected.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Roskind (US 204/0127197) teaches automatically changing a mobile device configuration.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMARA A. FRANKLIN whose telephone number is (571)272-2389. The examiner can normally be reached on Monday through Friday 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jamara A. Franklin/  
Primary Examiner, Art Unit 2876

JAF  
February 12, 2008

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